UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,139	08/21/2003	Mark Albert	062891.1142	7140

5073   7590   04/29/2010

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

EXAMINER
ROBINSON BOYCE, AKIBA K

ART UNIT	PAPER NUMBER
3628	

NOTIFICATION DATE	DELIVERY MODE
04/29/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail1@bakerbotts.com
glenda.orrantia@bakerbotts.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/645,139
Filing Date: August 21, 2003
Appellant(s): ALBERT ET AL.

_____

Keiko Ichiye
<u>For Appellant</u>

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/11/09 appealing from the Final Office

action mailed 5/2/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The amendment after final rejection filed on 7/3/06 has been entered.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,505,174   KEISER   1-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form

the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6, 8 and 10-27 are rejected under 35 U.S.C. 102(e) as being anticipated by

Keiser et al (US 6,505,174).

As per claim 1, Keiser et al discloses:

a billing system element operable to receive one or more packets of communication

flow, (Col. 25, lines 6-10, shows that transaction charges tracked from logging on the

market research tool shown in col. 22, lines 1-3 are stored in the billing database for

the next billing cycle, in this case the billing database represents the billing system,

and the communication flow comes from the user logging into the system), and

communicate with a price server, (Col. 21, lines 52-55, shows that the market

research tool is implemented in the client server environment over the Internet, w/

col. 23, lines 54-59, which shows that the market research tool is used to obtain

price information, in this case, Keiser et al doesn't specifically show a "price server",

however, this price server is inherent with Keiser et al's system since prices are

being obtained in a client server environment), wherein the price server is operable

to receive query from the billing system element associated with pricing parameter

relating to data segment to be accessed by an end user associated with the

communication flow, (Col. 23, lines 54-59, market research tool performs a query on

the price history tracking table to retrieve price per share of all requested securities.

In this case, "data segment" is a very broad term used in the claim. It is not defined

as being a specific type of data segment, and therefore, the examiner makes the

most reasonable interpretation of "data segment" as being the particular security that

the user requests since the security, and additional information about the security is

what is what to be accessed by the user), and wherein the price server is operable

to return a response the billing system element that includes the pricing parameter

relating to the data segment, (Col. 23, lines 59-62, creation of a temporary price

answer table), such that the end user can verify the pricing parameter before

accessing the data segment, (Col. 24, lines 43-46, the market researcher using the

marketing research tool may display or download pricing information, in this case, a

query is performed on the price history tracking table to create a temporary price

answer table that contains a price for each requested security, and the price is

accessed before the security since the temporary price answer table comprises the

price for a requested security, and not an accessed security); and

A content services gateway coupled to the billing system element and operable

to communicate with the billing system element in order to manage distribution of quota

provided to the end user, wherein the quota reflects a currency for the end user to apply

in accessing the data segment, (Col. 14, lines 45-59, shows the use of the Internet is

incorporated into the system, which uses a gateway, w/ col. 24, lines 5-11, using the

query to retrieve stop limit orders for all requested securities, therefore, the system is

managing the distribution by only retrieving requested information, where the stop limit

order information represents the quota as described in Col. 23, lines 63-67, and the

quota is represented by the price being set to a price that a security must obtain before

a trade order is filled in a stop limit order).

As per claims 2, 11, 17, 23, Keiser et al discloses:

wherein the price server is further operable to provide selected one of drop and

forward action, the forward action resulting in the end user being permitted access to

the data segment, and wherein the drop action restricts the end user such that he

cannot access the data segment/providing/means for providing/provide a selected one

of a drop and a forward action in response to receiving the communication flow, the

forward action resulting in the end user being permitted access to the data segment,

wherein the drop action restricts the end user such that he cannot access the data

segment, (Col. 22, lines 1-5, upon successful login, the user is permitted access to the

security information resulting in access to pricing information, in this case Keiser et al

does not specifically disclose restricting the end user to access the data segment,

however, this limitation is inherent with Keiser et al since login is required. Therefore, if

the user does not successfully login, he or she does not have access to information).

As per claims 3, 12, 18, 24, Keiser et al discloses:

wherein the price server is further operable to provide quota allocation the end

user on a per-flow basis such that the end user given an amount quota that may

substantially satisfy current access request being made the end user/providing/means

for providing/provide a quota allocation to the end user on a per-flow bases such that

the end user is given an amount of quota that may substantially satisfy a current access

request being made by the end user, (Col. 23, lines 63-67, where the quota is

represented by the price being set to a price that a security must obtain before a trade

order is filled in a stop limit order).

As per claims 4, 13, 19, 25, Keiser et al discloses:

wherein the billing system element further operable to communicate with an

advice of charge server, the advice of charge server operable receive query from the

billing system element and redirect communication flow associated with the end user to

webpage that is operable to display one or more financial parameters associated with

the data segment to the end user/redirecting/means for redirecting/redirect the

communication flow associated with the end user to a webpage that is operable to

display one or more financial parameters associated with the data segment to the end

user, (Col. 15, lines 4-5, portfolio presented on a Web page).

As per claim 5, Keiser et al discloses:

wherein the webpage includes decision block that allows the end user select

whether he would like proceed to access the data segment based on one or more

financial parameters, (Col. 22, lines 1-5, the user is given options as to whether or not

he or she can download security statistics).

As per claims 8, 15, 21, 27, Keiser et al discloses:

wherein the billing system element further comprises a quota server operable to

store quota data for the end user that reflects an allotment of information to be provided

to the end user, the quota server being operable to be updated in accordance with

direction provided by the Content Services Gateway/storing/means for storing/store

quota data for the end user that reflects an allotment of information to be provided to the

end user, (Col. 24, lines 11-15, shows storage in table through the answer table which

stores/shows stop limit orders, where quota data is represented by the stop limit order

information as disclosed above in claim 3, w/ col. 21, lines 53-55, shows marketing

research tool implemented in the client server environment).

As per claims 10, 16, 22, Keiser et al discloses:

Receiving/means for receiving a query associated with pricing parameter relating

data segment to be accessed by an end user associated with a communication flow,

(Col. 23, lines 54-59, market research tool performs a query on the price history tracking

table); and

returning a response to the query that includes the pricing parameter relating to

the data segment such that the end user can verify pricing parameter before accessing

the data segment, (Col. 23, lines 59-62, creation of a temporary price answer table,

w/Col. 24, lines 43-46, the market researcher using the marketing research tool may

display or download pricing information); and

managing distribution of quota provided to the end user based on information

being provided and associated with the pricing parameter, wherein the quota reflects a

currency for the end user to apply in accessing the data segment, w/col. 24, lines 5-11,

using the query to retrieve stop limit orders for all requested securities, therefore, the

system is managing the distribution by only retrieving requested information, where the

stop limit order information represents the quota as described in Col. 23, lines 63-67,

and the quota is represented by the price being set to a price that a security must obtain

before a trade order is filled in a stop limit order).

Specifically as per claim 22, Keiser et al disclose the following:

Software for managing network access, the software being embodied in a

computer readable medium and comprising computer code, (Col. 8, lines 45-55,

computer programs tangibly embodied in a computer readable medium comprising

instructions, where the instructions which, when read and executed by the computer

causes the computer to perform the steps necessary to execute the steps or elements

of the present invention,]where the computer program represents the software and the

instructions represent the code]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 7, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keiser et al

(US 6,505174).

As per claim 7, Keiser et al does not specifically disclose wherein Content

Services Gateway includes a known user table (KUT) operable store an internet

protocol (IP) address associated with the end user, the KUT being further operable

store information associated with first and second network nodes being used by the end

user, but does disclose that data stored in tables can be displayed by a user via TCP/IP socket in a web client server environment in Col. 24, line 58-Col. 25, line 2, and also discloses that the user can select one or more security that he or she wishes to view/download statistics in col. 22, lines 1-5, thereby making it obvious to incorporate this Content Services Gateway related to first and second network nodes.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have a Content Services Gateway that includes a known user table (KUT) operable store an internet protocol (IP) address associated with the end user, the KUT being further operable store information associated with first and second network nodes being used by the end user with the motivation of allowing a user utilizing the internet to access information about one or more security statistic, to actually have this information sent directly to the location in which the user occupies on the network for presentation to the user.

As per claim 9, Keiser et al does not specifically disclose wherein the Content Services Gateway further comprises quota manager element operable receive identifiers associated with first and second network nodes and to notify the billing system element a change from the first network node to the second network node, but does disclose the identification of events in Col. 9, lines 1-4, and shows charges for queries performed, where different queries are performed for each security that is highlighted in col. 25, lines 3-11, where the user can select one or more security that he or she wishes to view/download statistics in col. 22, lines 1-5, thereby making it obvious to incorporate this Content Services Gateway related to first and second network nodes.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have a quota manager element operable to receive identifiers associated with first and second network nodes and to notify the billing system element a change from the first network node to the second network node with the motivation of allowing the system to recognize when a user selects more that one security for view/download of statistical information, and to recognize the difference in selection in order to charge an appropriate amount.

(10) Response to Argument

As per claim 1, appellant argues that the price generation in Col. 24, lines 43-46 of Keiser is for historical prices of securities and indexes and not a verification. However, claim 1 recites **a pricing parameter relating to the data segment to be accessed by the end user**. In this case, the user can verify the pricing parameter before accessing the data segment. As described above in the rejection, "data segment" is a very broad term used in the claim. Since it is not defined as being a specific type of data segment, the examiner therefore, makes the most reasonable interpretation of "data segment" as being the particular security that the user requests since the security, and additional information about the security is what to be accessed by the user. In addition, Col. 24, lines 43-46, describes that a query is performed on the price history tracking table to create a temporary price answer table that contains a price for each requested security. In this case, the price is accessed before the security since the temporary price answer table comprises the price for a requested security, and not an accessed security.

Appellant also argues that quota in the present invention relates to access of the data segment, not ownership of the underlying asset. Appellant further argues that col. 23, lines 63-67 of Keiser discloses the triggering of stop loss orders, which, according to appellant, relates to the ownership of a stock versus the privilege of right to access certain information. However, the examiner is not relying on the ownership in this case, but is relying on the fact that when stop limit order information is obtained, that price per share and volume figures for all requested securities that are to be accessed are retrieved.

Additionally, appellant argues that Keiser fails to disclose any architecture in which there is a "content services gateway coupled to the billing system element and operable to communicate with the billing system element in order to *manage distribution of quota provided to the end user, wherein the quota reflects a currency for the end user to apply in accessing the data segment*". However, in col. 24, lines 5-11, Keiser discloses using the query to retrieve stop limit orders for all requested securities, therefore, the system is managing the distribution by only retrieving requested information, where the stop limit order information represents the quota as described in Col. 23, lines 63-67. Here, the quota is represented by the price being set to a price that a security must obtain before a trade order is filled in a stop limit order. In this case, Keiser describes an example where a trader will only buy a movie stock below $30, and when the market research user directs the system to obtain stop limit order information for that movie, a query is performed to retrieve price per share and volume figures for all requested securities (including the movie). In this case, if the limit for such

an order is not met, then that trader will buy the movie if the answer table indicates that the price per share of the movie is below $30 (this price therefore represents the quota), and pending cash balances can therefore be applied to access the security (data segment) if the limit for the order is not met.

Furthermore, appellant argues that there is no suggestion or motivation to combine reference teachings. However, KSR forecloses Appellant's argument that a specific teaching is required for a finding of obviousness. *KSR*, 127 S.Ct. at 1741, 82 USPQ2d at 1396. Claims 7 and 9 recited combinations which only unite old elements with no change in their respective functions and which yield predictable results. Thus, the claimed subject matter likely would have been obvious under *KSR*.

Appellant also argues that the examiner, without resorting to improper hindsight to look through the claimed invention, has not addressed the chance that the proposed combination would have any success whatsoever. However, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See In re McLaughlin, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

As per claims 10, 16 and 22, these claims recite limitations similar to those of claim 1, and are therefore also rejected for the same reasons.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Akiba Robinson-Boyce

/Akiba K Robinson-Boyce/

Primary Examiner, Art Unit 3628

John Hayes, SPE 3628

/JOHN W HAYES/
Supervisory Patent Examiner, Art Unit 3628

Vincent Millin /vm/

Appeals Conference Specialist